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Attorneys for Defendant  
DREYER'S GRAND ICE CREAM, INC.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

SKYE ASTIANA, PAMELA  
RUTLEDGE-MUHS, *et al.*,

## Plaintiffs,

vs.

## DREYER'S GRAND ICE CREAM, INC.,

**Defendant.**

) Case No. C11-02910 EMC  
}| consolidated with  
}| Case No. C11-3164 EMC

|  
**STIPULATION AND [proposed]  
ORDER (1) FURTHER CONTINUING  
CLASS CERTIFICATION BRIEFING  
SCHEDULE, (2) FURTHER  
CONTINUING THE JUNE 6, 2013  
HEARING ON THE CLASS  
CERTIFICATION MOTION, (3)  
CONTINUING THE JUNE 6, 2013  
CASE MANAGEMENT  
CONFERENCE, AND (4)  
DISMISSING ALL CLAIMS BY  
NAMED PLAINTIFF JAY  
WOOLWINE AGAINST DREYER'S  
WITHOUT PREJUDICE AND  
REMOVING HIM AS A PUTATIVE  
CLASS REPRESENTATIVE**

1 Plaintiffs Skye Astiana, Pamela Rutledge-Muhs and Jay Woolwine, and  
 2 defendant Dreyer's Grand Ice Cream, Inc., by and through their respective counsel of  
 3 record and pursuant to Fed. R. Civ. P. 41 and Local Rules 6-2 and 7-12, enter into the  
 4 following stipulation for an order (1) further continuing the class certification briefing  
 5 schedule, (2) further continuing the June 6, 2013 hearing on the class certification  
 6 motion, (3) continuing the June 6, 2013 case management conference, and (4)  
 7 dismissing all claims by named plaintiff Jay Woolwine without prejudice and removing  
 8 him as a putative class representative in this action:

9 WHEREAS, on June 14, 2011, plaintiff Astiana filed her initial complaint (Dkt.  
 10 #1);

11 WHEREAS, on June 27, 2011, plaintiffs Rutledge-Muhs and Woolwine filed  
 12 their initial complaint (Dkt. # 1 in Case No. C11-3164 EMC);

13 WHEREAS, on August 18, 2011, the two complaints were deemed "related" and  
 14 *Rutledge-Muhs* was re-assigned to this department (Dkt. #17);

15 WHEREAS, on September 30, 2011, the Court consolidated the two cases for all  
 16 purposes, designating the *Astiana* complaint as the single active complaint and relieving  
 17 Dreyer's from any obligation to respond to the *Rutledge-Muhs* complaint (Dkt. #27);

18 WHEREAS, on November 30, 2011, the parties engaged in a full day mediation  
 19 session in New York, New York, before David Geronemus of JAMS, and while the  
 20 parties were unable to settle the matter during the first day of mediation, sufficient  
 21 progress was made that the parties believed a second day of mediation was appropriate  
 22 and warranted;

23 WHEREAS, on March 8, 2012, the parties engaged in a full day mediation  
 24 session in San Francisco, before David Rotman of Gregorio, Haldeman & Rotman, and  
 25 while the parties were unable to settle the matter during the second day of mediation,  
 26 they agreed to consider re-initiating mediation at a later date;

27

28

1       WHEREAS, on July 31, 2012, a case management conference was held, and  
 2 subsequently on August 2, 2012, the Court entered a class certification motion schedule  
 3 (Dkt. #55), providing that Plaintiffs' motion for class certification was to be filed on  
 4 January 25, 2013, and setting a briefing schedule and hearing on the motion for class  
 5 certification;

6       WHEREAS, on November 16, 2012, the Court *sua sponte* reset the date for the  
 7 hearing on the class certification motion to June 6, 2013, and modified the due date for  
 8 the reply brief (Dkt. #70);

9       WHEREAS, on December 12, 2012 (based on the parties' stipulation (Dkt. #71)),  
 10 the Court reset the last day to file a motion for class certification to March 1, 2013 and  
 11 modified the briefing schedule, but retained the June 6, 2013 hearing date;

12       WHEREAS, at the February 8, 2013 further case management conference, the  
 13 Court set a further case management conference for June 6, 2013 (the same day as the  
 14 scheduled hearing on the motion for class certification) (Dkt. #74);

15       WHEREAS, the parties are currently engaged in discussions about whether to  
 16 reinitiate mediation and specifically whether Dreyer's will make plaintiffs a settlement  
 17 counter-offer in advance of a third day of mediation;

18       WHEREAS, the parties desire a three-week period of time to consider these  
 19 issues, including whether to schedule a third day of mediation, and believe it most  
 20 efficient for Court and party resources to do so without also having to simultaneously  
 21 litigate the action;

22       WHEREAS, to effectuate the three-week period without simultaneously having to  
 23 litigate the action, the parties desire to continue for three week the class certification  
 24 briefing schedule, the class certification hearing date, and the further case management  
 25 conference;

26       WHEREAS, the Court has not set any other outstanding deadlines in this action;

1        WHEREAS, named plaintiff Jay Woolwine recently has indicated his desire to  
2 dismiss without prejudice all of his claims against Dreyer's and to withdraw as a named  
3 plaintiff; and

4        WHEREAS, Dreyer's is agreeable to such dismissal and withdrawal, including  
5 that neither side will seek costs against the other.

6        NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, IT IS  
7 HEREBY STIPULATED by and between the parties, subject to approval by the Court,  
8 that:

9        1.       The last day to file a motion for class certification is March 22, 2013  
10 (continued from March 1, 2013);

11       2.       The last day to oppose the motion for class certification is May 3, 2013  
12 (continued from April 12, 2013);

13       3.       The last day to file a reply in support of the motion for class certification is  
14 June 13, 2013 (continued from May 23, 2013);    July 11,

15       4.       The hearing on the motion for class certification is continued to ~~June 27~~,  
16 2013 at 1:30 p.m. (from June 6, 2013);

17       5.       Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and 41(a)(2), all of named  
18 plaintiff Jay Woolwine's claims against defendant Dreyer's Grand Ice Cream, Inc. in  
19 this consolidated action are dismissed without prejudice, Mr. Woolwine will not be  
20 required to appear for deposition in this action, and Dreyer's and Mr. Woolwine shall  
21 not seek costs of suit from the other; and

22       //

23       //

24       //

25       //

26       //

27       //

1       6. Nothing stated herein shall prevent the parties, or one of them, from  
2 seeking an order further extending the dates set out above.

3 Dated: February 21, 2013      LAW OFFICES OF JANET LINDNER SPIELBERG

5                 By: /s/ Janet Lindner Spielberg  
6                 Janet Lindner Spielberg, Co-Lead Attorney for  
7                 PLAINTIFFS

8 Dated: February 21, 2013      BRAUN LAW GROUP, P.C.

9                 By: /s/ Michael D. Braun  
10                 Michael D. Braun, Co-Lead Attorney for  
11                 PLAINTIFFS

12 Dated: February 21, 2013      STEMBER FEINSTEIN DOYLE PAYNE & KRAVEC

13                 By: /s/ Joseph N. Kravec, Jr.  
14                 Joseph N. Kravec, Co-Lead Attorney for  
15                 PLAINTIFFS

16 Dated: February 21, 2013      FEARS NACHAWATI LAW FIRM

17                 By: /s/ Nabil Majed Nachawati  
18                 Nabil Majed Nachawati, Co-Lead Attorney for  
19                 PLAINTIFFS

20 Dated: February 21, 2013      MAYER BROWN LLP

21                 By: /s/ Dale J. Giali  
22                 Dale J. Giali, Attorneys for DEFENDANT

23 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

24                 The hearing on motion for class  
25                 certification is continued to  
26                 July 11, 2013 at 1:30 p.m.

27 Dated: February 27, 2013



District Judge

## **CERTIFICATE OF SERVICE**

I hereby certify that on February 21, 2013, I caused the foregoing  
**STIPULATION AND [proposed] ORDER (1) FURTHER CONTINUING CLASS**  
**CERTIFICATION BRIEFING SCHEDULE, (2) further CONTINUING THE**  
**JUNE 6, 2013 HEARING ON THE CLASS CERTIFICATION MOTION, (3)**  
**CONTINUING THE JUNE 6, 2013 CASE MANAGEMENT CONFERENCE,**  
**AND (4) DISMISSING ALL CLAIMS BY NAMED PLAINTIFF JAY**  
**WOOLWINE AGAINST DREYER'S WITHOUT PREJUDICE AND**  
**REMOVING HIM AS A PUTATIVE CLASS REPRESENTATIVE** to be  
electronically filed with the Clerk of the Court. I understand that the Court will provide  
electronic notification of and access to such filing to the counsel of record in this matter  
who are registered on the CM/ECF.

Dated: February 21, 2013

MAYER BROWN LLP

By: \_\_\_\_\_ /s/ *Dale J. Giali*  
Dale J. Giali  
Attorneys for Defendant  
DREYER'S GRAND ICE CREAM, INC.